



***COMMONWEALTH of VIRGINIA***  
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**TO:** L. RICHARD MARTIN, JR.  
Virginia Department of Social Services

**FROM:** USHA KODURU  
Assistant Attorney General

**DATE:** April 19, 2005

**SUBJECT:** Final Regulation 22 VAC 40-191-40 et seq.  
Background Checks for Child Welfare Agencies

I have reviewed the attached final regulation to determine if the State Board of Social Services (“State Board”) has the statutory authority to promulgate the final regulation and if this action by the State Board is exempt from the Administrative Process Act (APA).

It appears that the State Board has the authority to promulgate the proposed regulation, subject to compliance with the provisions of Article 2 of the APA, and has not exceeded that authority. The change to the regulation is necessary to reflect the changes in Code by the adoption of the 2005 Acts of Assembly. Pursuant to § 2.2-4006(A)(4)(a) of the Virginia Code, this action by the Board is exempt from the requirements of the APA.

If you have any questions, please feel free to call me at 786-1840.

cc: Kim F. Piner, Esquire

Attachment